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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,411	08/28/2003	Richard V. Zollinger	19516.034	6561
21878	7590	05/03/2005	EXAMINER	
KENNEDY COVINGTON LOBDELL & HICKMAN, LLP			HAUGLAND, SCOTT J	
214 N. TRYON STREET			ART UNIT	PAPER NUMBER
HEARST TOWER, 47TH FLOOR				
CHARLOTTE, NC 28202			3654	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/650,411	ZOLLINGER, RICHARD V.	
Examiner	Art Unit		
Scott Haugland	3654		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 February 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 3-5 is/are allowed.

6)  Claim(s) 1 and 2 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 28 August 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCullough (U.S. Pat. No. 3,905,210) in view of Bingham et al (U.S. Pat. No. 1,408,560).

McCullough discloses a snap-on ball tensioning device for attachment to a right-angle post comprising a ball tension portion 20, 36 having a first post engaging surface, a connecting portion (joining 32 and 36) formed integrally with the portion 36 having the first post engaging surface (col. 1, lines 39-40), and a leg portion 32 formed integrally with the connecting portion. The leg portion 32 has a retaining lip 34 on an outer end. The portions are sufficiently resilient to allow flexing of the leg portion away from the first post engaging surface to permit snapping of the device onto the leg of a post.

McCullough does not disclose that the ball tension portion 20, 36 is integrally formed with the connecting portion.

Bingham et al teaches integrally forming the ball tensioning portion and mounting portion of a ball tensioning device (note p. 1, lines 84-85).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally form the ball tensioning portion 20, 36 and the connecting portion of the ball tensioning device of McCullough as taught by Bingham et al to reduce manufacturing costs related to forming and assembling the device and to

provide a more secure connection between the ball tensioning device and the mounting bracket 22 of McCullough.

***Allowable Subject Matter***

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 2/15/05 have been fully considered but they are not persuasive.

Applicant argues that the screw connection in McCullough is contrary to an integral connection because it allows adjustment and removal of the tensioning device 20. However, McCullough does not disclose that the screw connection provides any beneficial adjustment feature. There does not appear to be any benefit to varying the angular position of the tensioning device 20 about the screw connection once the device is assembled. There is no indication that once the connection is made it would be changed. Use of a ceramic guide in opening 48 and bypassing of tensioning device 20 would not require removal of the tensioning device. The screw connection, however, would be subject to undesired loosening due to vibration or impact. It is, therefore, seen to have been obvious to provide an integrally formed connection between the tensioning device and the bracket 22 of McCullough to allow for a simplified and less costly forming

and assembly process and to eliminate the screw connection and its potential to loosen unintentionally.

Concerning Applicant's argument that integrally forming the device of McCullough would require an impractically complicated mold, it would have been a simple matter well within the level of skill of an ordinary artisan to form a mold to provide an integral connection between the bracket 22 and tensioning device 20 of McCullough or to integrally form the components by other known means. The mounting bracket and tensioning device of Bingham et al are cast as an integral unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (571) 272-6945. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lgtf  
sjh  
4/28/05

*Kathy Matecki*

KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600